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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/749,399	12/28/2000	Judith C. Espejo	20009 0005USU1 (BS00-129)	5268

45695 7590 01/23/2009	EXAMINER
AT&T Legal Department	BEAMER, TEMICA M
Attn: Patent Docketing	

ART UNIT	PAPER NUMBER
2617	

Room 2A-207
One AT&T Way
Bedminster, NJ 07921

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
	09/749,399	ESPEJO ET AL.
Office Action Summary	Examiner	Art Unit	
	TEMICA M. BEAMER	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>6/9/2008</u>.

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1,2,4,6-9,12,13 and 15-25</u> is/are pending in the application.

  4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1,2,4,6-9,12,13 and 15-25</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

  a) ☐ All b) ☐ Some * c) ☐ None of:

    1. ☐ Certified copies of the priority documents have been received.

    2. ☐ Certified copies of the priority documents have been received in Application No. _____.

    3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage
      application from the International Bureau (PCT Rule 17.2(a)).

  * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments filed 6/9/2008 have been fully considered and are

persuasive. Therefore, the rejection has been withdrawn. However, upon further

consideration, a new ground(s) of rejection is made in view of Espejo et al, U.S. Patent

No. 7,184,748.

Double Patenting

2.   The nonstatutory double patenting rejection is based on a judicially created

doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the

unjustified or improper timewise extension of the "right to exclude" granted by a patent

and to prevent possible harassment by multiple assignees.   A nonstatutory

obviousness-type double patenting rejection is appropriate where the conflicting claims

are not identical, but at least one examined application claim is not patentably distinct

from the reference claim(s) because the examined application claim is either anticipated

by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140

F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29

USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir.

1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422

F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163

USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3.   Claims 1, 2, 4, 6-9, 12, 13 and 15-25 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-20 of U.S. Patent No. 7,184,748. Although the conflicting claims are not identical, they are not patentably distinct from each other because both inventions are drawn to an interactive voice response system for pre-paid wireless services.

Present Application	U.S. Patent No. 7,184,748
1. An interactive voice response system for pre-paid wireless services comprising: a peripheral device in communication with a mobile switching system, the mobile switching system capable of communicating with at least one wireless device, an IVR application on the peripheral device comprising a menu driven system adapted to receive information from a customer, wherein the menu driven system interacts with the customer to ask the customer a number of previous	1, 9, 13. An interactive voice response system for pre-paid wireless services comprising: a peripheral device in communication with a mobile switching system, the mobile switching system capable of communicating with at least one wireless device, and an IVR application on the peripheral device comprising a menu driven system adapted to receive information from a customer, wherein the menu driven system interacts with the customer by one

transactions to be played backed to the customer.	previous transaction to ask the customer for a number of previous transactions for retrieval and provides information related to the previous transactions to be played back to the customer, wherein the information is utilized to determine a number of the previous transactions since the replenishment of an account associated with the customer.
2. The interactive voice response system according to claim 1, wherein the peripheral device includes at least one of an IP and an SCP.	2, 14. The interactive voice response system according to claim 1, wherein the peripheral device includes at least one of an IP and an SCP.
4. The interactive voice response system according to claim 1, wherein the menu driven system includes security provisions that permit customers to only access information related to their own personal accounts.	3, 15. The interactive voice response system according to claim 1, wherein the menu driven system includes security provisions that permit customers to only access information related to their own personal accounts.
6. The interactive voice response system according to claim 1, wherein the menu driven system resides on the SCP and communicates with at least one of the mobile switching system using IN TCAP messaging and an Intelligent Peripheral using TCP/IP.	4, 16. The interactive voice response system according to claim 1, wherein the menu driven system resides on the SCP and communicates with at least one of the mobile switching system using IN TCAP messaging and an Intelligent Peripheral using TCP/IP.
7. The interactive voice response	5. The interactive voice response

system according to claim 1, wherein the menu driven system resides on the SCP and communicates with at least one of the mobile switching system using IN TCAP messaging and an Intelligent Peripheral using IN TCAP messaging over CSS7 Network, and wherein the Intelligent Peripheral plays voice messages and communicates with the mobile switching system through a voice path.	system according to claim 1, wherein the menu driven system resides on the SCP and communicates with at least one of the mobile switching system using IN TCAP messaging and an Intelligent Peripheral using IN TCAP messaging over CSS7 Network, and wherein the Intelligent Peripheral plays voice messages and communicates with the mobile switching system through a voice path.
8. The interactive voice response system according to claim 1, wherein the transaction is a call.	6. The interactive voice response system according to claim 1, wherein the previous transactions are calls is a call.
9. The interactive voice response system according to claim 8, wherein the system recites at least one of a cost of the call, a time the call was placed, and a duration of the call.	19. The computer-readable medium according to claim 24, wherein the system recites at least one of a cost of the call, a time the call was placed, and a duration of the call.
12. The interactive voice response system according to claim 1, wherein the transaction is a replenishment.	8, 12, 20. The interactive voice response system according to claim 1, wherein the system recites at least one of an amount of the last replenishment, a date of the last replenishment, and a time of the last replenishment.
13. The interactive voice response system according to claim 12,	8, 12, 20. The interactive voice response system according to claim

wherein at least one of an amount of the replenishment and a time of the replenishment is recited.	1, wherein the system recites at least one of an amount of the last replenishment, a date of the last replenishment, and a time of the last replenishment.
15. The interactive voice response system according to claim 1, wherein the system recites the previous transactions back to the customer.	8, 12, 20. The interactive voice response system according to claim 1, wherein the system recites at least one of an amount of the last replenishment, a date of the last replenishment, and a time of the last replenishment.
16. A method for providing interactive voice responses for pre-paid wireless services comprising: communicating with a mobile switching system, via a peripheral device, the mobile switching system capable of communicating with at least one wireless device, receiving information from a customer via a menu driven system of an IVR application on the peripheral device, wherein the menu driven system interacts with the customer to ask the customer a number of previous transactions to be played backed to the customer.	1, 9, 13. An interactive voice response system for pre-paid wireless services comprising: a peripheral device in communication with a mobile switching system, the mobile switching system capable of communicating with at least one wireless device, and an IVR application on the peripheral device comprising a menu driven system adapted to receive information from a customer, wherein the menu driven system interacts with the customer by one previous transaction to ask the customer for a number of previous transactions for retrieval and provides information related to the previous transactions to be played back to the

	customer, wherein the information is utilized to determine a number of the previous transactions since the replenishment of an account associated with the customer.
17. The method according to claim 16, wherein the peripheral device includes at least one of an IP and an SCP.	2, 14. The interactive voice response system according to claim 1, wherein the peripheral device includes at least one of an IP and an SCP.
18. The method according to claim 16, wherein the menu driven system includes security provisions that permit customers to only access information related to their own personal accounts.	3, 15. The interactive voice response system according to claim 1, wherein the menu driven system includes security provisions that permit customers to only access information related to their own personal accounts.
19. The method according to claim 16, wherein the menu driven system resides on the SCP and communicates with at least one of the mobile switching system using IN TCAP messaging and an Intelligent Peripheral using TCP/IP.	4, 16. The interactive voice response system according to claim 1, wherein the menu driven system resides on the SCP and communicates with at least one of the mobile switching system using IN TCAP messaging and an Intelligent Peripheral using TCP/IP.
20. The method according to claim 16, wherein the menu driven system resides on the SCP and communicates with at least one of the mobile switching system using IN TCAP messaging and an Intelligent Peripheral using IN TCAP messaging over CSS7 Network, and wherein the	5. The interactive voice response system according to claim 1, wherein the menu driven system resides on the SCP and communicates with at least one of the mobile switching system using IN TCAP messaging and an Intelligent Peripheral using IN TCAP messaging over CSS7

Intelligent Peripheral plays voice messages and communicates with the mobile switching system through a voice path.	Network, and wherein the Intelligent Peripheral plays voice messages and communicates with the mobile switching system through a voice path.
21. The method according to claim 16, wherein the transaction is a call.	18. The computer-readable medium according to claim 19, wherein the transaction is a call.
22. The method according to claim 21, wherein the system recites at least one of a cost of the call, a time the call was placed, and a duration of the call.	19. The computer-readable medium according to claim 24, wherein the system recites at least one of a cost of the call, a time the call was placed, and a duration of the call.
23. The method according to claim 16, wherein the transaction is a replenishment.	8, 12, 20. The computer-readable medium according to claim 19, wherein the transaction is a replenishment.
24. The method according to claim 23, wherein at least one of an amount of the replenishment and a time of the replenishment is recited.	8, 12, 20. The computer-readable medium according to claim 19, wherein the transaction is a replenishment.
25. The method according to claim 16, wherein the menu driven system recites the previous transactions back to the customer.	1, 9, 13. An interactive voice response system for pre-paid wireless services comprising: a peripheral device in communication with a mobile switching system, the mobile switching system capable of

	communicating with at least one wireless device, and an IVR application on the peripheral device comprising a menu driven system adapted to receive information from a customer, wherein the menu driven system interacts with the customer by one previous transaction to ask the customer for a number of previous transactions for retrieval and provides information related to the previous transactions to be played back to the customer, wherein the information is utilized to determine a number of the previous transactions since the replenishment of an account associated with the customer.

Allowable Subject Matter

4.   Claims 1, 2, 4, 6-9, 12, 13 and 15-25 would be allowable once the above double patenting rejection is overcome.

Conclusion

5.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to TEMICA M. BEAMER whose telephone number is (571)272-7797. The examiner can normally be reached on Monday-Thursday (alternate Fridays) 9:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Charles Appiah can be reached on (571) 272-7904. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Temica M. Beamer/
Primary Examiner, Art Unit 2617